

REMARKS

Claims 1-17, 19-25, 27, 29-37, and 40-47 are currently pending in this application. Claims 12, 22-24, 42, and 43 are withdrawn from further examination as being drawn to a non-elected invention. Claims 1-11, 13-17, 19-21, 25, 27, 29-37, 40, 41, 45, and 46 are rejected under 35 U.S.C. § 112, second paragraph, for lack of clarity. Claim 45 is rejected under 35 U.S.C. § 112, first paragraph, for overbreadth and for containing subject matter that was not disclosed in the specification as filed. Claims 1-11, 13-17, 19-21, 25, 27, 29-37, 40, 41, and 44-46 are rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. Claim 47 has been deemed allowable if rewritten in independent form. By this reply, Applicants cancel claims 34, 36, 40, and 45-47, amend claims 1-3, 27, 37, and 44, and address each of the Examiner's rejections below.

Support for the Amendment

Support for the amendment to claims 1-3, 27, 37, and 44 is found in the claims as originally filed and in the specification on, e.g., page 3, lines 28-31, page 4, line 5, and page 6, lines 1-3. No new matter is added by the amendment. Applicants reserve the right to pursue cancelled subject matter in this or future related applications.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 1-11, 13-17, 19-21, 25, 27, 29-37, 40, 41, 45, and 46 are rejected under 35 U.S.C. § 112, second paragraph, for lack of clarity. The Examiner states:

Claims 1-11, 13-17, 19-21, 25, 27, 29-37, 40, and 41 remain indefinite because the claims are directed to treating any disorder

of the central nervous system, but the elected invention is limited to methods of treating stroke. Thus the metes and bounds of the claims are not clearly set forth. (Office Action, p. 5.)

Applicants have amended claims 1-3 and 37 to recite that the method is for treating “a subject having impaired central nervous system function resulting from a stroke.” Therefore, this rejection should be withdrawn.

Claims 2-11, 13-17, 19-21, 25, 27, 29-37, 40, 41, 45, and 46 are rejected for lack of clarity for neglecting to include a step wherein the “improvement” is effected. Applicants have amended claims 2, 3, and 37 accordingly and have cancelled claims 45 and 46. This rejection should now be withdrawn.

Claim 27 is rejected for its dependency on cancelled claim 26. Claim 27 has been appropriately amended. This rejection should now be withdrawn.

Claim 39 is also rejected for lack of clarity. Claim 39 was previously cancelled in the Reply to Office Action filed on April 18, 2003. Therefore, this rejection should be withdrawn.

Rejections under 35 U.S.C. § 112, first paragraph

Claim 45 is rejected under 35 U.S.C. § 112, first paragraph, for overbreadth and for containing subject matter that was not disclosed in the specification as filed. Applicants have cancelled claim 45. Therefore, this rejection can be withdrawn.

Claims 1-11, 13-17, 19-21, 25, 27, 29-37, 40, 41, and 44-46 are rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. The Examiner states:

the specification...[is] enabling for a method of causing improvement in function of the central nervous system in a

mammal having a brain ischemia resulting from stroke...[by]
injecting CD34^{+/+}, Lin⁻ cells into an ischemic region of the
mammal's brain, [but] does not reasonably provide enablement for
the various methods of treating covered by the claims. (Office
Action, p. 4.)

Applicants have amended claims 1-3, 37, and 44 to the scope deemed enabled by the Examiner
(see Office Action, p. 3). Accordingly, Applicants respectfully request that the rejection of
claims 1-11, 13-17, 19-21, 25, 27, 29-37, 40, 41, and 44-46 be withdrawn.

CONCLUSION


Applicants submit that the claims are in condition for allowance and such action is
respectfully requested.

Enclosed is a Petition to extend the period for replying to the Office action for two
months, to and including December 1, 2003, and a check in payment of the required extension
fee.

If there are any additional charges or any credits, please apply them to Deposit Account
No. 03-2095.

Date: Dec 1, 2003

Respectfully submitted,



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